IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5880 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

SATISHCHANDRA ANANDRAO GANDHI

Appearance:

MR UI VYAS for Petitioner

MR ANIL C THAKORE for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 08/08/2000

ORAL JUDGEMENT

#. I have heard Mr. U.J.Vyas learned counsel for the petitioner-Gujarat State Road Transport Corporation (hereinafter referred to as the Corporation) and Mr. A.C.Thakore learned counsel for the respondent workman.

#. The respondent workman Satischandra Anandrao Gandhi was working as a conductor under the Corporation. While he was on duty, a surprise check was conducted by the petitioner Corporation and during the surprise check it was found he did not issue tickets to a group of 13 passengers and by that he has realised the bus fare from them. The matter was reported to the authorities of the Corporation and departmental proceedings was initiated and in the departmental proceedings the charge against the respondent workman was proved. Thereafter a show cause notice was issued to the respondent and the Disciplinary Authority of the Corporation, after considering the report of the inquiring officer and after hearing the respondent, dismissed the respondent from service by an order dated 26.7.1997. Against the order of dismissal, the respondent workman raised an industrial dispute. The dispute was referred to Labour Court, Surat which registered the case as Ref.(LCS) No. 847 of 1997. The Labour Court after recording the evidence and after hearing the parties quashed the order of dismissal and directed the petitioner Corporation to reinstate the respondent in service without back wages. However, the Labour court has also imposed penalty of withholding three increments with cumulative effect.

#. Having felt aggrieved by the order of the Labour Court, Surat in Ref.(LCS) No.847 of 1997 dated 22.7.1999 the petitioner-Corporation has filed the present petition for quashing the order of the Labour Court.

#. Mr. Vyas learned counsel for the Corporation submitted that the Labour Court has taken a lenient view of the matter and the Labour Court has found that there is irregularity or illegality in the disciplinary proceedings. Mr. Vyas learned counsel for the Corporation further submitted that the default card was also produced before the Labour Court from where it can be seen that the respondent was, on earlier four occasions were warned and cautioned by the Corporation for misappropriating public money. Mr. Vyas learned counsel for the Corporation accordingly submitted that having regard to the nature of offence committed by the respondent workmen and considering the past conduct of the respondent workman the Labour Court should not have taken a too lenient view in the matter of penalty and therefore, the learned counsel submitted that the order of the Labour Court be quashed. Mr. Thakore learned counsel for the respondent workman submitted that though the default card was produced before the Labour Court no evidence has been led to prove the earlier misconducts

and therefore the petitioner can hold the respondent liable only for the present offence of non issuance of tickets. Learned counsel for the respondent-workman further submitted that it is not always possible for him to issue tickets to all passengers during rush period as all the passengers cannot be approached by the conductor during rush. I cannot agree with the submission of the learned counsel for the respondent. It is the duty of the conductor to issue ticket to the passengers and realise the money from them. In the instant case it appears that present misconduct of misappropriation was proved during the inquiry and the petitioner, in earlier four occasions were cautioned and warned for such misconducts. Therefore, I am of the view that the Labour Court has taken a too lenient view in the matter of awarding penalty. Considering the submission of the learned counsel both the sides and after going through the papers placed on the record of the petition, I am of the view that withholding of five increments with cumulative effect will meet the ends of justice. I do not like to interfere with the order of reinstatement passed by the Labour Court. Accordingly the judgment and award of the Labour Court, Surat is modified to the extent that in place of withholding of three increments , the Corporation shall withhold five increments of the respondent-workman with cumulative effect. With the aforesaid modifications and observation the petition is partly allowed. The petitioner Corporation is directed to reinstate the respondent workman in service within four weeks from the date of receipt of this order. Rule is made absolute to the aforesaid extent. No order as to costs.

(P.K.Sarkar.J)

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